

Professional Regulatory Boards

February 1999

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February 10, 1999

The Honorable John S. Wilder
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Speaker of the House of Representatives
The Honorable Kenneth N. (Pete) Springer, Chair
Senate Committee on Government Operations
The Honorable Mike Kernell, Chair
House Committee on Government Operations
and
Members of the General Assembly
State Capitol
Nashville, Tennessee 37243

Ladies and Gentlemen:

Transmitted herewith is the performance audit of the Professional Regulatory Boards. This audit was conducted pursuant to the requirements of Section 4-29-111, *Tennessee Code Annotated*, the Tennessee Governmental Entity Review Law.

This report is intended to aid the Joint Government Operations Committee in its review to determine whether the boards should be continued, restructured, or terminated.

Sincerely,

John G. Morgan
Comptroller of the Treasury

JGM/dlj
97-101

State of Tennessee

Audit Highlights

Comptroller of the Treasury

Division of State Audit

Performance Audit
Professional Regulatory Boards
February 1999

AUDIT OBJECTIVES

The objectives of the audit were to review the boards' and the Division of Regulatory Boards' legislative mandates and the extent to which the boards and the division have carried out those mandates efficiently and effectively, and to make recommendations that might result in more efficient and effective operation of the boards and the division.

FINDINGS

Not All Boards Have Met the Requirement for Self-Sufficiency

Professional regulatory boards are required to be self-sufficient, i.e., their revenues in a given year should be sufficient to cover their expenses. Board revenues are generated from application, examination, and license-renewal fees; charges for address changes and other administrative functions; and charges for inspections at some boards. (Because some boards have a biennial license-renewal period, revenues in every other year are limited to new licensees' fees and other charges.) Three of the boards reviewed were not self-sufficient during the last two fiscal years; another board was not self-sufficient during the last three fiscal years (page 15).

The Division's System for Processing Complaints Could Be Improved

The Division of Regulatory Boards does not have a uniform system to process complaints filed against licensees, and there is no central repository documenting complaint information and complaint status for all boards. Thus, the division's ability to track complaints is limited. In addition, although most complaints we reviewed were processed within a reasonable time, a few boards were not timely in sending letters to licensees requesting a response to complaints filed against them. These delays greatly increased complaint-processing times (page 20).

The Board for Licensing Alarm Systems Contractors Has Not Consistently Enforced License Renewal Requirements

The Board for Licensing Alarm Systems Contractors has not consistently taken action against alarm companies and qualifying agents (supervisors of alarm system contractor operations) whose licenses have expired and are therefore operating on an invalid license. In many cases, board staff continue to list such licensees as "active" on the board's printed roster of licensees and on information in the board's computer

system. (Although the system showed that the appropriate fees, etc., had not been paid, the licensee was listed as “active” on all computer screens.) As a result, consumers who request information about whether an alarm company or qualifying agent is properly licensed may receive inaccurate information (page 24).

Two Members of the Board for Licensing Alarm Systems Contractors Had Expired Licenses During Their Board Terms

According to Section 62-32-308(d), *Tennessee Code Annotated*, no person (with the exception of the public member) is eligible to sit as a member of the Board for Licensing Alarm Systems Contractors unless he or she is a licensed qualifying agent. A file review of qualifying agents found that the licenses for two board members had expired. One member’s license expired April 30, 1997, and was not renewed until April 1998. (Even then, his continuing education requirements had been met only through April 1997.) Another member’s qualifying-agent license expired October 31, 1997, and was not renewed until February 1998 (page 26).

The Burial Services Section Is Not Auditing All Cemetery Companies and Is Not Enforcing Compliance With Reporting Requirements

The Burial Services Section’s ability to monitor the appropriateness of cemetery companies’ financial activities is limited by the lack of annual audits and by some cemetery companies’ and their trustees’ failure to submit timely annual reports. Although Section 46-2-313, *Tennessee Code Annotated*, requires an annual audit of cemetery companies’ Improvement of Care Funds, seven of the 14 cemetery companies’ files we reviewed contained no record of an audit of these funds during 1997. In addition, our review of companies’ files found that some cemetery companies and cemetery company trustees were not submitting required annual reports in a timely manner (page 27).

Reprocessing Unreadable Fingerprint Cards Is a Burden for the Three Security Industries Licensing Boards

Applicants to these boards are required to submit three sets of classifiable fingerprints on standard TBI/FBI applicant cards. Two sets of these fingerprint cards, which are used to conduct background checks on the applicants, are submitted to the TBI and the FBI simultaneously, along with a \$24 processing fee to each agency. The TBI and the FBI sometimes reject the fingerprint cards because they are unreadable. (Our review of fingerprint submissions from January to May 1998 indicated that about 7% were rejected.) There is no charge for applicant fingerprint cards that are submitted to the TBI and FBI a second time. However, cards that must be submitted additional times cost the boards \$48 (\$24 for the TBI and \$24 for the FBI) each time the cards are processed. In addition to the monetary cost, board staff spend a substantial amount of time obtaining and reprocessing additional sets of fingerprint cards (page 29).

The Board of Funeral Directors and Embalmers Is Allowing Funeral Establishments That Change Owners to Operate Under the Existing License, in Violation of State Law

The Board of Funeral Directors and Embalmers has allowed funeral homes to operate under the licenses of the former owners until the licenses expire or until the establishments apply for new licenses, even though state law says these licenses are not transferable or assignable. The board apparently wants to ensure the continuation of services during changes of ownership. Our review of board meeting minutes found that the board hears approximately 25 requests for ownership changes per year. Since licensee files do not indicate when a new owner begins operating a funeral home using an existing license, the board does not know how long new owners typically manage funeral homes before applying for licenses. The board’s biennial licensing period could allow a new owner to operate under an existing license for many months (page 31).

OBSERVATIONS AND COMMENTS

The audit also discusses the following issues that may affect the operations of the professional regulatory boards and the Division of Regulatory Boards, as well as the citizens of Tennessee: the need to evaluate the monitoring of preneed funeral contracts; the Board of Cosmetology's actions in response to concerns about nail shops and the use of nail drills; the Real Estate Commission's policies regarding the licensing of persons with criminal convictions; the Board of Pharmacy's monitoring of impaired pharmacists; funeral directors' and embalmers' need for continuing education on exposure to communicable diseases and formaldehyde; the need to better document the method used to allocate indirect costs to the boards; the boards' inspections of licensees; and the storage of board licensee files on microfilm (page 7).

ISSUES FOR LEGISLATIVE CONSIDERATION

The General Assembly may wish to revise the statutes to clarify whether the Departments of Commerce and Insurance and Finance and Administration are to consider the professional regulatory boards individually, or as a group, for budget and self-sufficiency purposes (page 33).

Performance Audit Professional Regulatory Boards

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
Purpose and Authority for the Audit	1
Objectives of the Audit	1
Scope and Methodology of the Audit	2
Organization and Responsibilities	2
Board Composition and Meetings	2
Board Administration and Staff	3
Number of Licensees and Renewal Periods	5
Licensing Requirements	5
OBSERVATIONS AND COMMENTS	7
Need to Evaluate the Monitoring of Preneed Funeral Contracts	7
Board of Cosmetology's Actions in Response to Concerns About Nail Shops and the Use of Nail Drills	8
Real Estate Commission's Policies Regarding the Licensing of Persons with Criminal Convictions	9
Board of Pharmacy's Monitoring of Impaired Pharmacists	11
Funeral Directors' and Embalmers' Need for Continuing Education on Exposure to Communicable Diseases and Formaldehyde	11
Need to Better Document the Method Used to Allocate Indirect Costs to the Boards	12
Boards' Inspections of Licensees	13
Storage of Board Licensee Files on Microfilm	14
FINDINGS AND RECOMMENDATIONS	15
1. Not all boards have met the requirement for self-sufficiency	15
2. The division's system for processing complaints could be improved	20

TABLE OF CONTENTS (Cont.)

	<u>Page</u>
3. The Board for Licensing Alarm Systems Contractors has not consistently enforced license renewal requirements	24
4. Two members of the Board for Licensing Alarm Systems Contractors had expired licenses during their board terms	26
5. The Burial Services Section is not auditing all cemetery companies and is not enforcing compliance with reporting requirements	27
6. Reprocessing unreadable fingerprint cards is a burden for the three Security Industries Licensing Boards	29
7. The Board of Funeral Directors and Embalmers is allowing funeral establishments that change owners to operate under the existing license, in violation of state law	31
RECOMMENDATIONS	33
Legislative	33
Administrative	33
APPENDIX	35
Professional Regulatory Boards Reviewed	35

Performance Audit Professional Regulatory Boards

INTRODUCTION

PURPOSE AND AUTHORITY FOR THE AUDIT

This performance audit of 14 professional regulatory boards was conducted pursuant to the Tennessee Governmental Entity Review Law, *Tennessee Code Annotated*, Title 4, Chapter 29. Under Section 4-29-220, the following entities are scheduled to terminate June 30, 1999:

Board of Barber Examiners
Board of Cosmetology
Board of Examiners for Architects and Engineers
Board of Funeral Directors and Embalmers
Board of Examiners for Land Surveyors
Board of Pharmacy
Collection Service Board
Private Protective Services Advisory Committee
Real Estate Appraiser Commission
Real Estate Commission

The Board for Licensing Alarm Systems Contractors is scheduled to terminate June 30, 2001 (Section 4-29-222); the Board of Polygraph Examiners and the Auctioneer Commission, June 30, 2002 (Section 4-29-223). Although the Private Investigation Commission does not have a scheduled termination date, it is being reviewed under the general authority of Section 4-29-119. In addition, we reviewed certain functions of the Division of Regulatory Boards' Burial Services Section. The Comptroller of the Treasury is authorized under Section 4-29-111 to conduct a limited program review audit of the boards and to report to the Joint Government Operations Committee of the General Assembly. The audit is intended to aid the committee in determining whether the boards should be continued, restructured, or terminated.

OBJECTIVES OF THE AUDIT

The objectives of the audit were

1. to determine the authority and responsibility the General Assembly mandated to the boards and the Division of Regulatory Boards, Department of Commerce and Insurance;

2. to determine the extent to which the boards and the division have fulfilled their legislative mandate efficiently and effectively and have complied with applicable laws and regulations; and
3. to develop possible alternatives for legislative and administrative actions that could result in more efficient and/or effective operation of the boards.

SCOPE AND METHODOLOGY OF THE AUDIT

The activities of these 14 professional regulatory boards were reviewed for the period July 1995 through June 1998. The audit was conducted in accordance with generally accepted government auditing standards and included

1. review of applicable statutes and rules and regulations;
2. examination of board files, documents, policies and procedures, inspections, meeting minutes, and licensee files;
3. review of prior performance audit and financial and compliance audit reports and audit reports from other states;
4. interviews with Division of Regulatory Boards staff and staff of the Department of Commerce and Insurance, Department of Labor, Department of Environment and Conservation, Department of Safety, Tennessee Bureau of Investigation, and regulatory boards in other states; and
5. observation of inspections of cosmetology, funeral director, and pharmacy licensees and attendance at 13 boards' meetings (one board did not meet while we were conducting audit work).

ORGANIZATION AND RESPONSIBILITIES

The Division of Regulatory Boards provides staff and administrative support to the various boards and commissions that perform the occupational licensing and regulation of professions in Tennessee. The boards are responsible for ensuring licensees comply with the laws and regulations of their professions and for protecting the public from any licensee's unprofessional conduct or illegal activity. See the Appendix for a listing of each board reviewed, its statutory citation, and a brief description of its purpose/responsibilities.

BOARD COMPOSITION AND MEETINGS

Each board is composed of licensed industry members who may be selected from lists of names submitted by trades and professions. In addition, the boards have public members. The

Governor is the appointing authority for all boards except the Private Protective Services Advisory Committee, whose members are appointed by the Commissioner of Commerce and Insurance. The statutes for some boards state that the Governor “shall strive to appoint one member sixty years of age or older and one member of a racial minority.” As of June 1998, the Collection Service Board does not have a member 60 years of age or older. The Board of Examiners for Land Surveyors, the Board of Pharmacy, and the Collection Service Board do not have racial minority members. Pursuant to Section 62-2-201, *Tennessee Code Annotated*, the Board of Examiners for Architects and Engineers is to have at least “one female and one black person.” The board does not have a black member. The Board of Cosmetology has a vacancy on its board and does not have a member with a degree in education as required. The Real Estate Appraiser Commission is required to have two racial minority members but has only one.

The boards may also be required by statute to hold a specific number of meetings per year. Information on the boards’ compliance with membership and meeting requirements is presented in Table One.

BOARD ADMINISTRATION AND STAFF

The boards have either an administrator or an executive director and staff who are responsible for the board’s administrative functions and who report to the board members. The administrative functions include, but are not limited to, processing applications and renewal notices, licensing, preparing board meeting agendas and minutes, and handling complaints.

As of June 1998, eight attorneys and fourteen investigators assisted in investigating and handling complaints. The investigation pool’s staff includes a director, an assistant director, and twelve investigators—three assigned to East Tennessee, three to West Tennessee, and six to Middle Tennessee. The investigators, unlike the staff attorneys, are not assigned to particular boards; instead, cases are assigned to investigators by region. Several boards have their own investigators/inspectors on staff. The Auctioneer Commission has one investigator; the Private Protective Services Advisory Committee has two investigators who also conduct investigations for the two other Security Industries Licensing Boards—the Board for Licensing Alarm Systems Contractors and the Private Investigation Commission. The Board of Pharmacy, which has five investigator positions (four are currently filled), requires that its investigators, who also perform inspections, be licensed pharmacists with five years’ experience. In addition, the Boards of Cosmetology, Barber Examiners, and Funeral Directors and Embalmers have inspectors who can investigate complaints; the Real Estate Commission can use its staff auditors.

The boards with their own investigators/inspectors can use the pool if needed. Investigations staff stated that investigators working directly for a board might not be as independent as an investigator in the pool. However, individual boards believe it is more cost-effective and efficient to have their own investigators who can be sent out at a moment’s notice. The investigation pool had only 13,158 billable hours in 1997, as compared to 19,841 billable hours in 1996, and 23,583 billable hours in 1995. At the same time, the hourly charge to boards for investigative services increased from \$18.58 per hour in 1995 to \$27.18 in 1996 and \$44.95 in 1997. (The decrease in

billable hours may be at least partially attributable to some investigators' needing extended medical leave.)

Table One

Board Name	Number of Members (a)	Racial Minority Member (a)	Sixty Years or Older Member (a)	Required Annual Meetings (a)	Number of Meetings in 1997
Board for Licensing Alarm Systems Contractors	5	Yes	Yes	NA	5
Board of Examiners for Architects and Engineers	12	No	NA	2	4
Auctioneer Commission	5	Yes	Yes	4	7
Board of Barber Examiners	5	Yes	Yes	NA	7
Collection Service Board	5	No	No	NA	8
Board of Cosmetology	9	Yes	Yes	NA	11
Board of Funeral Directors and Embalmers	7	Yes	Yes	NA	12
Board of Examiners for Land Surveyors	4	No	Yes	1	8
Board of Pharmacy	7	No	Yes	1	7
Board of Polygraph Examiners	7	Yes	Yes	NA	0 (b)
Private Investigation Commission	9	Yes	Yes	NA	5
Private Protective Services Advisory Committee	NA	NA	NA	NA	2
Real Estate Appraiser Commission	9	Has 1; 2 required	Yes	3	12
Real Estate Commission	9	Yes	Yes	NA	12

Notes:

(a) NA indicates that there is no specific statutory requirement.

(b) The Board of Polygraph Examiners met on December 11, 1996, and March 19, 1998.

The boards maintain data on all licensees using the Regulatory Board System (RBS), an on-line computer system. This system produces license renewal notifications and licenses. It is also used for tracking applications for licenses, license fee payments, and continuing education information. Some boards use the system to assign a number to a complaint and to enter complaint information. All 14 boards covered in this audit are on the RBS system.

NUMBER OF LICENSEES AND RENEWAL PERIODS

The boards have different renewal periods, license application fees, and license renewal fees. Fees vary within each board by type of license. For example, the Board of Funeral Directors and Embalmers' application fee for a funeral director or embalmer license is \$200. The application fee for a funeral establishment is \$500. The fee for biennial renewal is \$100 for a funeral director or embalmer license and \$150 for a funeral establishment license. The Board of Barber Examiners' fee for registration as a master barber or a technician is \$50 and the annual renewal fee is \$80. The registration fee for a barber school is \$600; the annual renewal fee is \$350. A barber instructor pays \$50 to register and \$90 for annual license renewal. A barber shop pays a \$50 registration fee and an annual renewal of \$100. Table Two provides the license period and expiration date, renewal amounts, and number of licensees for the boards in this audit.

LICENSING REQUIREMENTS

The boards are responsible for ensuring applicants for licensure meet the requirements of their profession. The requirements vary by board and profession but may include age, United States citizenship, good moral character, completion of a course of study in a school specializing in the particular profession, a college degree, a passing score on an examination, and work experience.

The boards differ in the methods used to verify the information the license applicants provide. For example, the Board of Examiners for Land Surveyors requires a licensee to speak and write the English language and be of good moral character. The board assumes that if the application is written in the English language, the applicant has met the language requirement. Letters of recommendation are used to determine good moral character. The Collection Service Board's requirement to be trustworthy, honest, and financially responsible is verified by the firm's reputation within the industry. Board of Funeral Directors and Embalmers' applicants submit answers to questions about criminal convictions, communicable diseases, and citizenship, attested to before a notary. The Private Investigation Commission requires applicants to answer whether a court has declared them mentally incompetent or if they are suffering from habitual drunkenness or narcotics addiction.

Applicants to the Board of Polygraph Examiners submit fingerprints for a criminal records check to determine proof of the requirement that they not have been convicted of a felony or misdemeanor involving moral turpitude. Applicants to the Board for Licensing Alarm Systems Contractors have TBI and FBI background checks performed.

Table Two

Board Name	License Period and Expiration Date	Renewal Amount (a)	Number of Licensees (b)
Board for Licensing Alarm Systems Contractors	Annually on Last Day of Month of Issue	\$40	3,659
Board of Examiners for Architects and Engineers	Biennially on Date of Issue	\$140	17,910
Auctioneer Commission	Biennially on Date of Issue (c)	\$150	4,196
Board of Barber Examiners	Annually–Expiration Varies by License Type	\$80	7,649
Collection Service Board	Annually on December 31	\$350	828
Board of Cosmetology	Annually on Date of Issue	\$50	50,860
Board of Funeral Directors and Embalmers	Biennially on Date of Issue	\$100	3,970
Board of Examiners for Land Surveyors	Annually on December 31	\$120	857
Board of Pharmacy	Biennially on Last Day of Month of Issue	\$96	8,944
Board of Polygraph Examiners	Annually on December 31	\$500	37
Private Investigation Commission	Biennially on Date of Issue	\$100	1,442
Private Protective Services Advisory Committee	Biennially on Date of Issue	\$50	14,765
Real Estate Appraiser Commission	Biennially on Date of Issue	\$200	1,678
Real Estate Commission	Biennially on December 31 of Even-Numbered Years	\$40	38,626

Notes:

- (a) These renewal amounts are for an individual license. Amounts differ for firm, apprentice, trainee, etc., classifications.
- (b) These numbers include apprentices, trainees, firms, establishments, and inactive licensees, as of June 1998.
- (c) Pursuant to Section 62-19-111(i), *Tennessee Code Annotated*, all auctioneer licenses expire on June 30 of odd-numbered years. According to the board administrator, the staff attorney has advised the board that the law needs to be changed to reflect the staggered system in use.

OBSERVATIONS AND COMMENTS

NEED TO EVALUATE THE MONITORING OF PRENEED FUNERAL CONTRACTS

It is not clear that the current level of monitoring of preneed funeral contracts is sufficient to adequately protect the state's consumers. Although the Division of Regulatory Boards' Burial Services Section has the authority to monitor money-funded preneed contracts, neither the section nor the Board of Funeral Directors and Embalmers has authority to monitor insurance-funded preneed contracts—the vast majority of preneed contracts. With money-funded preneed contracts, persons contract with the seller (e.g., a funeral establishment) to provide burial services at some point in the future. Sellers must be registered, have an approved contract, and have a trust agreement with a bank or other financial institution.

The Department of Commerce and Insurance's Division of Insurance monitors insurance-funded contracts through its examinations of insurance companies. This monitoring is indirect—division examiners pull a sample of insurance policies for review; if preneed policies are included in the sample, they are reviewed. However, the examiners' focus is on the appropriateness of the insurance company's activities, rather than on the activities of the funeral director selling the preneed services.

Many of the complaints made to the Board of Funeral Directors and Embalmers appear related to preneed contracts. In February 1998, one former funeral director was indicted and charged with taking \$700,000 from over 200 individuals and failing to put the money into a trust account. Because of the board's concerns about preneed contracts, a committee was formed to identify and discuss problems and formulate solutions. In February 1998, the committee chair wrote a letter to the Commissioner of Commerce and Insurance expressing the following concerns:

- Although over \$200 million in preneed funeral services are sold each year and 90% of payments are supposedly going to an insurance company, Burial Services only audits preneed funeral payments going to financial institutions (i.e., money-funded preneed contracts).
- All funeral homes need to register with the state as preneed sellers. (Many homes who sell preneed services are apparently not registered and, therefore, not monitored.)
- The state needs to improve its methods of auditing the preneed activities of funeral homes (e.g., not announcing preneed audits in advance).

The Department of Commerce and Insurance should evaluate the current level of monitoring of preneed contracts, both money funded and insurance funded, to determine if current monitoring efforts are providing adequate protection to the state's consumers. If needed, the department should revise the monitoring process and request appropriate legislative changes.

Burial Services staff, in consultation with the Board of Funeral Directors and Embalmers, should review the process for auditing money-funded preneed contracts and identify ways to improve the effectiveness of these audits.

Division of Regulatory Board's Comment

We concur in part. The monitoring of insurance-funded preneed products is not within the purview of the Board of Funeral Directors and Embalmers, Burial Services, or the Executive Director of either program area. Monitoring responsibility for insurance-funded preneed products has been delegated by statute to the Insurance Division.

BOARD OF COSMETOLOGY'S ACTIONS IN RESPONSE TO CONCERNS ABOUT NAIL SHOPS AND THE USE OF NAIL DRILLS

Because nail drill safety and sanitation are issues related to public safety and health, the Board of Cosmetology needs to continue its efforts to enforce rules and regulations regarding manicurists, nail shops, and nail drills. The board and its staff have received complaints, cited violations, assessed fines, and held informal conferences and formal hearings regarding unsanitary conditions at nail shops, the use of nail drills, the use of unlicensed or improperly licensed persons, and unlicensed activities (e.g., tattooing, lip enlargement).

In recent years, the use of nail drills has been a major concern of board members. These drills are used to file acrylic nails, usually only on the free edge of the nail. However, manicurists in some shops use techniques that allow the drill to enter the natural nail and damage it, and some even use wood drills (instead of drills designed for use on nails). Another concern with nail drills is the spreading of hepatitis, funguses, and HIV.

The board voted in January 1997 to permit only drills specified for use on human hands, to require licensees to post signs stating that the customer could refuse the use of the drill, and (effective July 1, 1997) to assess a penalty of \$500 for use of illegal drills. In addition, a committee of board members was formed in July 1997 to study nail drills. In January 1998, the board passed a resolution that power devices used on fashion nails are not to exceed 15,000 rpms. The board voted not to ban the use of all drills at that time.

From January 1996 to April 1998, the Board of Cosmetology received 86 complaints, 15 of which were related to nails, nail shops, and related sanitation problems. The complaints included allegations of failure to sterilize instruments, nail fungus developing after the manicure, and cuts during the manicure. The board dismissed five of those 15 complaints. Seven of the complaints were dismissed when the shops passed inspection. Two complaints were closed by the attorney after an inspector was sent. One complaint resulted in a formal hearing and one year's probation for the shop.

During an annual or complaint-related inspection, inspectors may write a violation if they determine that a rule or statute has been violated. A fine may then be assessed as part of a consent order. (Repeat offenses and the seriousness of the violation are considerations in

assessing fines.) Effective September 1997, the board increased fines to \$300 for the first violation, \$500 for the second, and \$500 for employing an unlicensed person.

**Board of Cosmetology
Number of Complaints Received**

Period	Total Complaints	Complaints Related to Nails
1996	33	9
1997	44	5
1998 through April	9	1
Totals	86	15

**Board of Cosmetology
Number of Consent Orders Paid**

Period	Total Paid	Nail-Related Consent Orders
1996	94	34
1997	57	22
1998 through April	26	12

The total number of nail-related complaints and paid consent orders declined from 1996 to 1997. Board administration and legal staff attribute this decline to the increase in the amount of fines assessed and the board's requiring conferences with licensees about violations. However, the number of paid consent orders related to nails remains high.

REAL ESTATE COMMISSION'S POLICIES REGARDING THE LICENSING OF PERSONS WITH CRIMINAL CONVICTIONS

The purchase or sale of residential property involves large amounts of money and is complex and time-consuming. Most people employ a real estate professional to help with the legal, financial, and administrative requirements. A dishonest agent poses a significant risk to the consumer not knowledgeable about selling or acquiring property. Therefore, it is important that the Real Estate Commission appropriately monitor licensees, particularly those who have been convicted of crimes.

Section 62-13-303(a)(1), *Tennessee Code Annotated*, states that "licenses shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity and competence . . . to safeguard the interest of the public." The application for a real estate license requires the applicant to respond yes or no to questions about whether he or she is under

investigation for, has been charged with, has pled guilty or no contest to, or has been convicted of a misdemeanor or felony. An applicant who answers yes is required to provide a certified copy of the conviction and an affidavit with details.

The Real Estate Commission has adopted policies regarding such applicants. Commission Policy Statement 89-CPS-006 states that when an applicant has answered yes and provided a certified copy of the conviction,

- the commission will deny the application, at which point the applicant can request a conference;
- the applicant must have a sponsoring broker attend the conference with him/her; and
- the applicant must have three letters of recommendation from prominent citizens in the community.

According to the Executive Director, the commission interviews applicants and their supervisory brokers to impress upon them the seriousness of the matter and the need to diligently supervise the applicants.

Commission Policy Statement 96-CPS-003 says applicants with previous convictions may be granted a license with two conditions:

- Placement on a one-year probation
- Upon transferring to a new broker, appearance before the commission with the new broker

According to Commission Policy Statement 96-CPS-005, no applicant will be considered for licensure until two years after conviction, the end of probation, or release from incarceration, whichever is later. (This policy applies to all crimes involving the theft of money, services, or property.)

We reviewed information from 40 informal conferences the commission held with 36 applicants and one licensee during 1997. The applicants had convictions for shoplifting, theft, illegal drug possession, and DUI. The commission granted licenses to 25 applicants along with the standard one-year probation. Six candidates received licenses but a longer probationary period and/or quarterly reporting requirements. Five were not approved because two years had not passed since their probation ended, the board needed additional information, or the candidate needed to comply with other conditions. The informal conference with a licensee was held because she had not revealed a criminal conviction when filing her application. The board assessed a fine and placed her on a two-year probation.

Several of the applicants apparently did not adhere to the conditions the commission placed on their licenses. One of the 25 candidates placed on standard probation was to provide three letters of recommendation, according to commission minutes. The letters, however, were not in the licensee's file and staff could not locate them. Another candidate placed on standard probation did not appear before the board when changing principal brokers, as the policy requires. He did, however, file a change-of-broker form. One of the six applicants receiving the longer

probationary period had not filed the required quarterly reports and had no supervisory broker (he was serving as his own principal broker).

BOARD OF PHARMACY'S MONITORING OF IMPAIRED PHARMACISTS

The Board of Pharmacy currently monitors 44 impaired pharmacists who have surrendered their license and agreed, through a contract with the board, to participate in a substance abuse program. The board's standard contract consists of a five-year suspension of the license with all or a portion of the suspension stayed so that the pharmacist can continue to work. The contract requires complete abstinence from alcohol and controlled substances and submission to random drug testing and prohibits work as a pharmacist in-charge. The pharmacist may, however, petition the board to remove this restriction.

For each impaired pharmacist, the board maintains information about the circumstances that led to surrender of the license, the contract terms, the dates of urine analysis screenings and results, and the pharmacists' progress reports to the board. The two pharmacists' files we reviewed indicated the impaired pharmacists had urine analysis screenings approximately every 200 days during probation. The results of those screenings were received 40 to 60 days later. One pharmacist relapsed after 33 months on probation and surrendered his license again. The board reinstated him 20 months later and removed in-charge restrictions ten months after his reinstatement. The other pharmacist had in-charge restrictions removed 50 months after probation began. That pharmacist was to report personally to the board once a year during his five years of probation. The pharmacist's file and board minutes recorded only two meetings with the board during his probation.

Consumers rely on pharmacists to dispense medications and advice that could be life saving (or life threatening, if the incorrect advice or medication is provided). For this reason, and because of the access pharmacists have to controlled substances, it is important that the board closely monitor all impaired pharmacists and take immediate action if problems arise.

FUNERAL DIRECTORS' AND EMBALMERS' NEED FOR CONTINUING EDUCATION ON EXPOSURE TO COMMUNICABLE DISEASES AND FORMALDEHYDE

Exposure to communicable diseases and formaldehyde are serious issues for funeral industry workers. According to the Tennessee Department of Labor's Division of Occupational Safety and Health, funeral industry personnel, particularly embalmers, should take protective measures against exposure to formaldehyde and infectious agents such as the Hepatitis B virus and the human immunodeficiency virus (HIV).

One of the requirements listed in Section 62-5-305, *Tennessee Code Annotated*, for a funeral director's license is that applicants must be properly protected (through education or immunization) against communicable diseases. Although there is no similar statutory requirement

for an embalmer's license, the application asks whether the applicant has been properly protected against communicable diseases.

The federal government's Occupational Safety and Health Administration (OSHA) has promulgated standards concerning exposure to formaldehyde and disease. These standards address such things as ventilation in the embalming room, protective equipment, and immunization information about employees. The board's staff annually inspects funeral homes for ventilation, storage of chemicals, and sanitation in the preparation room.

The Board of Funeral Directors and Embalmers will begin requiring ten hours of continuing education for renewal of licenses beginning January 2000. However, the initial draft of the continuing education rules does not include a requirement for courses on protection against communicable diseases or overexposure to formaldehyde. (The board's attorney stated that such courses would be added to the continuing education program before it was finalized.) Another concern is that licensees who have been licensed continuously for ten or more years as of October 1, 2000, will be excluded from the continuing education requirement. Based on a review of licensee files, we estimated that this provision could exclude approximately 75% of licensed funeral directors and approximately 67% of licensed embalmers.

The Board of Funeral Directors and Embalmers should support continuing education programs regarding exposure to communicable diseases and formaldehyde and should encourage all licensees to participate.

Comment by the Chair of the Board of Funeral Directors and Embalmers

One cannot be vaccinated against HIV. The Funeral Board inspectors do not audit OSHA files. If they did audit OSHA files they could determine if OSHA training and hepatitis vaccinations are being administered to licensees. To the best of my knowledge, TOSHA has audited two funeral homes in the state of Tennessee since the OSHA regulations were put in place. I do know for a fact that TOSHA audited Tetrick Funeral Home in Elizabethton. The rules for continuing education that are going to be read into the record on October 20 do not address education on HIV and other communicable diseases. If the board finds it necessary, the rule may be changed to require education on communicable diseases. However, it would seem that OSHA requirements accomplish the same. I do believe it is unfortunate that 67% of the licensees in the state are exempt from continuing education. However, OSHA regulations require funeral home owners to see that proper training and vaccinations are done. This should cover those active licensed funeral directors and embalmers that are exempt from continuing education.

NEED TO BETTER DOCUMENT THE METHOD USED TO ALLOCATE INDIRECT COSTS TO THE BOARDS

It appears that the Division of Regulatory Boards does have a reasonable method for allocating indirect costs among the various professional regulatory boards; however, the method of allocation and the rationale behind that allocation has not always been sufficiently documented.

A board's expenses include direct costs, a state regulatory fee, and indirect costs. Direct costs are those costs directly attributed to the operation of that board—salaries and benefits for board staff, travel for board members and staff, printing of the board's rules, etc. The state regulatory fee, set each year in the General Appropriations Act, has been \$5 per active licensee in each fiscal year since inception. Indirect costs are those allocated to the boards for administrative, legal, investigative, and department costs. The division refers to these allocations as costbacks.

Amounts charged to the boards as costbacks are determined by the Assistant Commissioner for the Regulatory Boards and her staff. Each board is assessed a base amount for administrative, legal, investigative, and department services. The remaining costs are allocated based on the number of licensees a board has, the percentage of time a board used a particular service (e.g., legal), or the number of hours (at a standard rate) a board used certain division staff (e.g., investigators).

The calculations of the 1997 costbacks were contained in a file of handwritten worksheets, with no rationale provided for the actions taken. According to the Assistant Commissioner for the Regulatory Boards, the amounts charged are carefully reviewed and considered by her and her staff. The methods for determining the amounts to charge have been developed over several years. To support the 1998 costbacks, the division developed, with the assistance of the Director of Internal Audit, a computer spreadsheet that considers several factors in the calculation of costbacks. These factors include the number of licensees, the number of board meetings, the number of board members, and an amount proportionate to the level of administrative effort furnished to the board. The Assistant Commissioner for the Regulatory Boards and the Director of Internal Audit have indicated that this spreadsheet will be used in the future and that the rationale used to determine the factors will be documented and reviewed and updated as necessary.

BOARDS' INSPECTIONS OF LICENSEES

The Boards of Barber Examiners, Cosmetology, Pharmacy, and Funeral Directors and Embalmers have staff who are responsible for on-site inspections of licensees' business premises. And the Real Estate Commission has staff auditors who visit real estate firms' offices. Our reviews of a sample of licensee files found, overall, that the establishments these boards license had been recently inspected, with the exception of real estate offices.

Real Estate Commission Rule 1260-3-.03 states that office inspections will be conducted periodically. These random, unannounced inspections are conducted by the Real Estate Commission's two auditors (a third position will be added in fiscal year 1999). During the inspections, auditors audit escrow accounts and check for compliance with the rules for display of licenses. They also check disclosure statements and closing statements. The auditors have the authority to conduct a complete audit if they suspect any violation. Based on our review of real estate firm files, it does not appear that firms are inspected regularly. We reviewed 13 files—eight contained no audit reports, the other five contained reports (two from 1994, one from 1993, one from 1992, and one from 1986).

The Boards of Barber Examiners and Cosmetology share eleven inspectors who are responsible for inspecting barber and cosmetology licensees in certain counties. The purpose of the inspections is to verify shop and individual licenses and to ensure that shops maintain adequate sanitary conditions. Our review of licensee files found that all the shops included in the sample had been inspected during the last calendar year.

The Board of Pharmacy is authorized by Section 53-11-302, *Tennessee Code Annotated*, to periodically inspect the premises of licensed pharmacists. The board's policy, according to staff, is to inspect pharmacies once every two years. Two (one pharmacy and one wholesaler) of the 11 pharmacy licensees we reviewed had not been inspected within the two-year period.

The Board of Funeral Directors and Embalmers has two inspectors who are responsible for inspecting funeral establishments at least once a year. Our review of licensee files found that all the establishments included in the sample had been inspected in a timely manner.

STORAGE OF BOARD LICENSEE FILES ON MICROFILM

The Division of Regulatory Boards is in the process of replacing its paper files of licensee information with microfilm files. Information Systems staff microfilm the licensees' files, review the microfilm to ensure the information has been copied correctly, and index the files by profession code and license number. The original information in the file is then destroyed. As additional information is received, board staff enter that information into the RBS system, code the mail by profession and license number, and send it to be microfilmed and indexed.

The efficiency and effectiveness of the boards' microfilm storage process are still unknown. To obtain a microfilmed file, board staff must send a request to the Division of Information Systems. The microfilmed files are pulled and sent to board staff via the computer system. During our file review for the Board of Barber Examiners and the Board of Cosmetology, staff could not locate two of 33 licensee files using the index number assigned to them. In addition, during our review of paid consent orders for the Board of Cosmetology, staff could not locate on microfilm four of 22 orders requested using the assigned index.

FINDINGS AND RECOMMENDATIONS

1. Not all boards have met the requirement for self-sufficiency

Finding

Professional regulatory boards are required to be self-sufficient, i.e., their revenues in a given year should be sufficient to cover their expenses. Board revenues are generated from application, examination, and license-renewal fees; charges for address changes and other administrative functions; and charges for inspections at some boards. (Because some boards have a biennial license-renewal period, revenues in every other year are limited to new licensees' fees and other charges.) The following table details which boards did and did not have sufficient revenue to cover expenses during fiscal years 1996, 1997, and 1998:

**Professional Regulatory Boards
Self-Sufficiency Requirement Met?**

Board	Fiscal Year 1996	Fiscal Year 1997	Fiscal Year 1998
Board for Licensing Alarm Systems Contractors	Yes	No	Yes
Private Investigation Commission	Yes	Yes	Yes
Private Protective Services Advisory Committee	No	No	No
Board of Examiners for Architects and Engineers	Yes	Yes	Yes
Board of Barber Examiners	Yes	Yes	No
Board of Cosmetology	Yes	No	No
Board of Funeral Directors and Embalmers	Yes	No	No
Auctioneer Commission	Yes	No	Yes
Board of Examiners for Land Surveyors	Yes	Yes	No
Board of Pharmacy	Yes	Yes	Yes
Board of Polygraph Examiners	Yes	No	No
Collection Service Board	Yes	Yes	Yes
Real Estate Appraiser Commission	Yes	No	Yes
Real Estate Commission	No	Yes	No

In addition, the Board of Funeral Directors and Embalmers had a deficit reserve account for fiscal years 1995, 1996, 1997, and 1998. (See Exhibit on page 17.)

Section 4-3-1011, *Tennessee Code Annotated*, requires the Commissioner of Finance and Administration to certify, to the Assistant Commissioner of the Division of Regulatory Boards, the revenue required by each board for the subsequent fiscal year based on the General Appropriations Act. The division is to estimate the revenue to be generated by each board. If any board's estimate is lower than the amount certified, the statute directs the commissioner to reduce that board's budget by the amount of the deficiency. In addition, Section 4-29-121 requires the Commissioner of Finance and Administration to certify to the Joint Government Operations Committees and the Tennessee Code Commission a list of all regulatory entities that did not collect fees in an amount sufficient to pay the cost of operation. If an entity is certified in any two consecutive fiscal years, it is subject to a revised termination date of June 30 of the fiscal year immediately following the second year it operated at a deficit. According to Commerce and Insurance staff, Finance and Administration does not formally certify the revenue required by each board; instead, both departments consider the boards as a group, rather than individually, for budget as well as self-sufficiency purposes. It is not clear, however, whether such an interpretation is consistent with the intent of the statute.

Recommendation

Management of the Division of Regulatory Boards should review those boards that have problems meeting self-sufficiency requirements and identify ways to increase revenues and/or decrease expenses.

The General Assembly may wish to revise the statutes to clarify whether the Departments of Commerce and Insurance and Finance and Administration are to consider the professional regulatory boards individually, or as a group, for budget and self-sufficiency purposes.

Management's Comment

Division of Regulatory Boards

We concur. In 1990 each board projected revenues and expenditures for five upcoming budget years and adjusted fees accordingly. In recent budget periods, the Division of Regulatory Boards has not considered further revision to fee structures as the best option to ensure self-sufficiency; however, the division has been successful in containing and reducing many costs in an effort to maintain or achieve self-sufficiency. The Division of Regulatory Boards is in the process of exploring additional alternatives to ensure that all boards are self-sufficient and reserve deficits are eliminated.

**Board Fees, Expenditures and Reserve Account Balances
Fiscal Years 1996, 1997, and 1998**

	Alarm Systems Contractors Board	Private Investigation Commission	Private Protective Services Advisory Committee	Board of Examiners for Architects & Engineers	Board of Barber Examiners	Board of Cosmetology	Board of Funeral Directors & Embalmers
Reserve Account 6/30/95	\$106,791	\$(18,646)	\$141,271	\$570,121	\$245,152	\$219,219	\$(108,217)
Fees FY 96	\$341,905	\$200,187	\$540,626	\$1,263,240	\$285,293	\$1,390,934	\$379,515
Expenditures FY 96	\$244,122	\$126,684	\$607,263	\$866,551	\$224,529	\$983,949	\$294,912
Excess of Revenues Over (Under) Expenditures FY 96	\$97,783	\$73,503	\$(66,637)	\$396,689	\$60,764	\$406,985	\$84,603
Reserve Account 6/30/96	\$204,574	\$54,857	\$74,634	\$966,810	\$305,916	\$626,204	\$(23,614)
Fees FY 97	\$295,842	\$181,185	\$724,511	\$1,183,419	\$283,344	\$1,096,468	\$172,480
Expenditures FY 97	\$335,062	\$151,386	\$867,617	\$1,065,882	\$282,854	\$1,266,868	\$386,183
Excess of Revenues Over (Under) Expenditures FY 97	\$(39,220)	\$29,799	\$(143,106)	\$117,537	\$490	\$(170,400)	\$(213,703)
Reserve Account 6/30/97	\$165,354	\$84,656	\$(68,472)	\$1,084,347	\$306,406	\$455,804	\$(237,317)
Fees FY 98	\$365,212	\$213,294	\$702,030	\$1,215,286	\$268,818	\$1,068,952	\$377,873
Expenditures FY 98	\$315,172	\$136,589	\$942,693	\$1,060,514	\$334,854	\$1,129,681	\$428,176
Excess of Revenues Over (Under) Expenditures FY 98	\$50,040	\$76,705	\$(240,663)	\$154,772	\$(66,036)	\$(60,729)	\$(50,303)
Reserve Account 6/30/98	\$215,394	\$161,361	\$(309,135)	\$1,239,119	\$240,370	\$395,075	\$(287,620)

	Auctioneer Commission	Board of Examiners for Land Surveyors	Board of Pharmacy	Board of Polygraph Examiners	Collection Service Board	Real Estate Appraiser Commission	Real Estate Commission
Reserve Account 6/30/95	\$35,987	\$11,518	\$459,150	\$10,221	\$43,365	\$(64,087)	\$613,484
Fees FY 96	\$238,701	\$132,961	\$807,040	\$16,620	\$144,693	\$353,294	\$430,008
Expenditures FY 96	\$210,793	\$80,672	\$744,824	\$11,947	\$103,582	\$255,675	\$1,453,056
Excess of Revenues Over (Under) Expenditures FY 96	\$27,908	\$52,289	\$62,216	\$4,673	\$41,111	\$97,619	\$(1,023,048)
Reserve Account 6/30/96	\$63,895	\$63,807	\$521,366	\$14,894	\$84,476	\$33,532	\$(409,564)
Fees FY 97	\$215,802	\$143,132	\$981,029	\$16,690	\$153,526	\$140,216	\$4,122,251
Expenditures FY 97	\$221,754	\$128,205	\$804,764	\$22,411	\$132,243	\$232,807	\$3,442,812
Excess of Revenues Over (Under) Expenditures FY 97	\$(5,952)	\$14,927	\$176,265	\$(5,721)	\$21,283	\$(92,591)	\$679,439
Reserve Account 6/30/97	\$57,943	\$78,734	\$697,631	\$9,173	\$105,759	\$(59,059)	\$269,875
Fees FY 98	\$234,260	\$144,026	\$878,225	\$17,870	\$166,395	\$355,537	\$527,258
Expenditures FY 98	\$208,319	\$191,739	\$751,880	\$23,154	\$126,780	\$314,840	\$1,390,403
Excess of Revenues Over (Under) Expenditures FY 98	\$25,941	\$(47,713)	\$126,345	\$(5,284)	\$39,615	\$40,697	\$(863,145)
Reserve Account 6/30/98	\$83,884	\$31,021	\$823,976	\$3,889	\$145,374	\$(18,362)	\$(593,270)

Auditor's Note: The chairs of the Boards of Barber Examiners and Cosmetology did not respond to individual findings, but appeared to concur with the audit overall. The response by the administrator of the Security Industries Licensing Boards is also that of the Board for Licensing Alarm Systems Contractors.

Chair of the Board of Examiners for Architects and Engineers

We concur. Our board does not have this problem. We have met this requirement for many years and at the present time, we have what we feel is a healthy reserve fund.

Chair of the Auctioneer Commission

This problem was created by changing the license renewal process from June of each year to a rotating basis, and it took six months for the figures to actually reflect the amount of money available. This problem is now corrected and the fiscal year 1998 should show sufficient revenue to operate this board.

Chair of the Collection Service Board

We concur. We have already implemented.

Chair of the Board of Funeral Directors and Embalmers

I concur our board has not always been self-sufficient. However, I understand that several years ago during a budget crunch the Governor's office took the surplus funds our board had generated. Therefore, I'm not sure whether our board is self-sufficient. If we need to raise fees to be self-sufficient, I am sure our board will vote to do so. Two years ago, we were ready to raise fees, but were discouraged from doing so. May I point out that the Funeral Board operates on a staggered fee renewal basis so that one year we have a surplus, one year we have a deficit.

Chair of the Board of Examiners for Land Surveyors

We concur with your findings. We raised administrative fees in 1998 and will take action to cut back on travel expenses this next year. We also will cut back on investigative expenses in 1998. The Land Surveyor's Board does not run an annual deficit.

Chair of the Board of Pharmacy

Our board is not affected by this finding and we are not privy to financial information from other boards.

Chair of the Board of Polygraph Examiners

We concur with the finding and will explore an increase in revenues and/or a decrease in expenditures in order to correct the funding deficit.

Chair of the Private Investigation Commission

We concur with the finding but this finding is currently inapplicable to this commission. We are cognizant of the statutory requirement of self-sufficiency, and currently our revenues are

sufficient to cover expenses. We have made every effort to operate within a reasonably formulated budget.

Chair of the Private Protective Services Advisory Committee

We concur. Requests to increase fees through rulemaking have been denied. Other regulatory boards have increased fees to meet the self-sufficiency requirement (TDH-EMS). As an alternative, the consolidation of the three security industry licensing boards would be cost effective and increase the likelihood of meeting the self-sufficiency requirement as well as streamlining regulatory activities.

Chair of the Real Estate Appraiser Commission

According to figures received from the department, it would appear this commission will have an approximate deficit of \$18,362 for the combined fiscal years of FY 96-97 and FY 97-98. The commission is concerned. We reviewed all expenditures for the past three fiscal years to determine why there is a current operating deficit.

The obvious problem appears to be costbacks. All expenditures over which the commission has full control actually decreased from FY 96-97 to FY 97-98. Item 8, Professional Dues, is actually a “pass through” expense to the Appraisal Foundation for the federal registry fees collected by the commission and transmitted to the foundation. Deleting this item from expenses for comparison purposes reveals that expenses actually decreased 1% or \$1,567 from FY 96-97 to FY 97-98. There is a \$7,200 expense in FY 97-98 for law book printing. The need for a new law book resulted from a rule-making hearing and subsequent rule/law changes. If this item were deleted, expenses actually decreased \$8,767 or 5.6% from FY 96-97 to FY 97-98.

The commission is striving to meet bimonthly rather than monthly to conserve expenditures. Fewer meetings have resulted in savings in travel, per-diem and legal. The expense sheet indicates our rent increased \$4,653 or 31.2% over the past year. This is somewhat puzzling as we relocated to a smaller space to conserve expenses. Why did we experience such a large rent increase, especially in view of the smaller space occupied? A comparison of FY 96-97 and FY 97-98 costback expenses reveals the following:

1. Administration increased \$13,547 or 96%.
2. Legal decreased as a result of fewer meetings and increased efficiency.
3. Investigation increased \$12,200 or 150%.
4. Departmental costs increased \$10,557 or 80%.

Obviously, no commission can experience such drastic expenditure increases without offsetting revenues unless there is a substantial reserve account. I understand that all reserve or surplus funds were removed from this commission in either FY 93-94 or FY 94-95.

At our November meeting, the commission discussed possible solutions to the deficit problem. The consensus among the commission was that a license fee increase was necessary to operate at a positive level. The opinion was that a reserve account was also needed to address expenses that arise on a periodic basis and for potential expense increases that have not been planned for. As you know, fees have not been increased since the inception of this commission

and expenses have increased dramatically over that period of time. Original revenue projections were made on the basis of 15 to 20% more licensees than actually developed and that number is not increasing. A motion to increase fees was tabled to allow the Administrative Director time to study the matter and recommend an appropriate fee level to strive to operate the commission on a self-sufficient basis. It is extremely difficult to plan for expenses when you have no estimates for cost backs to utilize for budgeting purposes. Maybe the department could consider involving the Administrative Director in the overall budgeting process so they will be better informed as to potential increases in Cost Back Expenses. The proposed fee increase will be addressed at the January 11, 1999 meeting of the Appraiser Commission.

Chair of the Real Estate Commission

We concur in part. The division has some boards that do not meet the requirement for self-sufficiency. This commission has not, as of this date, shown a deficit for two years in a row. With biannual renewal, a deficit during the non-renewal period should be expected.

Administrator for the Security Industries Licensing Boards

I concur. Every effort is made by the Boards and the Advisory Committee to operate within reasonably formulated budgets. They realize revenues must cover expenses; however, past requests to increase fees have been discouraged or denied. In my opinion, it is imperative that as soon as possible, the Private Protective (Security Guard) Services Advisory Committee begin evaluation and “Rulemaking” procedures to increase fees. The Private Investigation Commission and the Alarm Contractors Boards should evaluate their financial standings and formulate a five-year budget plan; most likely including the implementation of new fee structures.

2. The division’s system for processing complaints could be improved

Finding

The Division of Regulatory Boards does not have a uniform system to process complaints filed against licensees, and there is no central repository documenting complaint information and complaint status for all boards. Thus, the division’s ability to track complaints is limited. In addition, although most complaints we reviewed were processed within a reasonable time, a few boards were not timely in sending letters to licensees requesting a response to complaints filed against them. These delays greatly increased complaint-processing times.

Complaint-handling Process

Upon receiving a complaint, board staff sends the complainant a complaint form and a letter explaining the complaint process. The complaints are entered in a manual complaint log and onto the RBS system, which assigns a complaint number. The administrator sends the licensee a copy of the complaint and requests a response within a certain number of days. (Required response time varies by board—three boards require a response to be submitted within ten days of

receiving a notice of complaint from the board, five boards require a response within 14 days, one board requires a response within 15 days, four boards require a response within 20 days, and the Pharmacy Board has no set time limit.) When the response is received, the administrator enters the date of receipt in the log and determines whether to forward the complaint to the board's staff attorney. Some boards send all complaints (along with the response and any other pertinent documents) to the attorney for review. The attorney can refer the complaint to the investigation section or recommend a disposition (dismissal, informal conference, formal hearing, etc.) to the board. (Some boards, not their attorneys, make the decision to send an investigator.) The board attorney presents a synopsis of the facts in the case (listed only by case number), the investigator's findings (if applicable), and a recommended action. The board discusses the case and votes on the disposition of the complaint.

All boards appear to track complaint information, but the type of information tracked is not uniform and is not accessible through a centralized data system. Some boards track complaints manually in written complaint logs, while others track complaint information on the Regulatory Board System (RBS) or on computer programs other than RBS. Some boards use both manual and computer tracking. The RBS was intended to have complaint information available for easy retrieval by board and legal staff. However, according to the department's General Counsel, RBS is useful for tracking license information but is too cumbersome and not user friendly for complaint tracking. The legal staff do not use the system for tracking complaints.

The Assistant Commissioner of Regulatory Boards holds periodic complaint review meetings with the board administrator and staff attorneys to discuss open complaints and their current status.

Complaint File Review

We selected a sample of complaint files, reviewing 18 files that were open as of April 14, 1998, and 20 files that were closed during fiscal year 1998. We recorded, where available, the date the complaint was filed with a board, the date the board sent a letter to the respondent for a response, the date the response letter was received, and (for closed files) the date the case was closed.

For the closed files we reviewed, the complaints were processed timely overall, with an average of 141 days from the date the complaint was filed to the date it was closed. The boards submitted letters to licensees requesting a response to the complaint an average of six days after the complaint was filed and licensees returned their responses an average of 13 days after receiving the letters.

For the open files reviewed, most boards mailed complaint response requests to licensees in a timely manner, and most licensees responded to the complaints within, or close to, the time limits set by the boards. However, the three Security Industries Licensing Boards (Board for Licensing Alarm Systems Contractors, Private Investigation Commission, and Private Protective Services Advisory Committee) took excessive amounts of time to send the complaint response requests to licensees. (No complaints from these boards were included in the review of closed complaints above because of insufficient information to identify closed complaints.) For these

boards, it took an average of from 115 to 169 days from the time the complaint was filed to the date the letter was sent to the licensee. The Private Protective Services Advisory Committee took as long as 190 days to send a letter to one licensee; the Board for Licensing Alarm Systems Contractors took as long as 224 days, and the Private Investigations Commission took as long as 317 days. Each of these boards had a complaint that had been open over 700 days—a Private Protective Services complaint we reviewed had been open 1,093 days.

The Chief Counsel for the Division of Regulatory Boards stated that the Security Industries Licensing Boards are slower than the other boards in processing complaints because they do not have adequate staff to handle the large number of duties unique to these boards. For example, these boards regulate professions that require applicants to submit fingerprint cards. Processing these cards (and investigating problems with unreadable prints) takes additional time. (See page 29.)

Recommendation

The Division of Regulatory Boards should implement a centralized system for monitoring and tracking complaints against licensees. The division should analyze the data to identify boards that do not process complaints in a timely manner and should take action to correct the problems.

Management's Comment

Division of Regulatory Boards

We concur in part. Because of the diversity of the professions regulated by the Division of Regulatory Boards, uniformity in the amount of time provided for responses from the licensees is not practical. Some matters require increased technical and legal expertise whereas others are quite easily resolved. The Division of Regulatory Boards is in the process of implementing enhancements to the Regulatory Board System (RBS) to develop a single, more efficient source of complaint information and tracking.

Chair of the Board of Examiners for Architects and Engineers

We concur. There is always room for improvement. We utilize RBS for tracking complaint information while also recording the information manually. With the projected upgrades to the RBS system it should be easier for all the boards to use RBS more effectively and thereby be more efficient in complaint handling.

Chair of the Collection Service Board

We concur.

Chair of the Board of Funeral Directors and Embalmers

I concur that there are problems throughout the division. I do not concur that there are problems with the Funeral Board. The only recommendation that I might make is that the division

establish a number of days for all complaints filed with the regulatory boards to be answered. The members of the Funeral Board do not know about complaints until they are presented at the board meetings. I am not sure we know the date the complaints are received. I believe the attorneys for the board inform those on whom the complaints are filed as to how many days they have to respond.

Chair of the Board of Examiners for Land Surveyors

We do not concur with your findings. The board processes its complaints in a timely manner. (**Auditor's Note:** The finding did not take issue with this board's handling of complaints.)

Chair of the Board of Pharmacy

We concur in part. Based on anecdotal reports from the Director of the Board of Pharmacy, the complaint handling procedures utilized by the Board of Pharmacy are adequate and timely. We concur with the findings that cite the different methods employed by the boards to track complaints. We concur with the finding that the RBS system is presently too cumbersome to utilize for complaint tracking. We do not concur with the portion of the recommendation that the division should force any board to take actions to close complaints prematurely. The present system of routine complaint review is both adequate and satisfactory. The majority of delays appear to be the result of the involvement of the legal system or insufficient staffing. (**Auditor's Note:** Neither the finding nor the recommendation suggests that complaints be closed prematurely. The finding addresses those boards, not the Board of Pharmacy, that took an inordinately long time to request a response from licensees who had complaints made against them, thereby delaying the complaint investigation process unnecessarily.)

Chair of the Private Investigation Commission

We concur in part. In the past, there have been delays in the timely resolution of consumer complaints. It is the Commission's understanding that the primary cause of these delays had been inadequate staffing to handle the workload produced by the three security industry licensing boards. Recently, the staff has been increased and the handling of consumer complaints is being given high priority.

The commission is without sufficient knowledge to comment on the adequacy of the division's complaint tracking capabilities or complaint information system. The commission has not experienced a problem nor otherwise been informed of any difficulty in obtaining information related to complaints.

Chair for the Private Protective Services Advisory Committee

We concur. A change in legal staff assignment has resulted in more aggressive complaint management. We consider this finding resolved.

Chair of the Real Estate Commission

We concur in part. The enhancements to the regulatory boards computer system (RBS) will improve complaint tracking for the division. The commission recognizes its duty to handle complaints in an expeditious manner and in such a way as to insure due process for licensees and protection of the public. The commission believes it fulfills these duties and will continue to do so with or without additional division oversight.

Chair of the Real Estate Appraiser Commission

The Tennessee Real Estate Appraiser Commission has no apparent problems in the processing of complaints. The commission is fortunate to have the services of a very competent and efficient Staff Attorney, Ms. Christy Allen. There is no undue backlog of complaints and all have been processed on an expedient basis. The commission was recently audited by the Appraisal Sub-Committee of the Appraisal Foundation and was commended for its efficient complaint processing system.

Administrator for the Security Industries Licensing Boards

I concur. The “division’s” computer system for processing complaints is currently being enhanced so that we can better process and track complaints as well as inter-relate with our legal section on complaint handling. Answering specifically for the Security Industry Licensing Section, our complaints are now being handled in a timely manner with the “request for response” being forwarded from this office within 24-48 hours of the receipt of the complaint. Once the response is received, the information is then being forwarded to our legal counsel within 24 to 48 hours. In order to overcome a backlog of complaints in all three boards and coordinate and maintain the flow of paperwork between the complainant, the respondent, legal counsel and the boards, I found it necessary to rearrange our staffing pattern and job responsibilities. These new procedures are working beautifully and I am extremely proud of the progress made in such a short time. Also, a change in legal representation greatly enhanced the over-all turn around time for complaints with all three programs.

3. The Board for Licensing Alarm Systems Contractors has not consistently enforced license renewal requirements

Finding

The Board for Licensing Alarm Systems Contractors has not consistently taken action against alarm companies and qualifying agents (supervisors of alarm system contractor operations) whose licenses have expired and are therefore operating on invalid licenses. In many cases, board staff continue to list such licensees as “active” on the board’s printed roster of licensees and on information in the board’s computer system, the RBS. (Although the RBS showed that the appropriate fees, etc., had not been paid, the licensee was listed as “active” on all

computer screens.) As a result, consumers who request information about whether an alarm company or qualifying agent is properly licensed may receive inaccurate information.

According to Sections 62-32-313(f) and 62-32-317(a), *Tennessee Code Annotated*, licenses for both qualifying agents and alarm contractor companies must be renewed annually by the last day of the twelfth month following the date of issuance or renewal. If qualifying agents and alarm contractor companies do not renew by that date, their licenses become invalid until all renewal and late fees are paid.

Twenty-three percent of the qualifying agents listed as active on the board's printed roster had not met the requirements (paid the appropriate fees, etc.) necessary to be considered an active licensee. Using the Regulatory Board System (RBS), we checked each of the 459 active licensees on the March 1998 roster of qualifying agents to determine whether all those agents had paid the appropriate renewal fees. As of March 27, 1998, 106 of the 459 registrants listed (23%) had not paid the appropriate renewal fees and therefore had expired licenses. Thirteen of the 106 expired licensees had been issued a cease and desist order and one license was listed as expired in other RBS information; all others (92) of the 106 expired licensees were still listed as active.

Nearly 8% of the alarm companies listed as active on the board's printed roster had not met the requirements (paid the appropriate fees, etc.) necessary to be considered an active licensee. Using the RBS, we checked each of the 418 active licensees on the March 1998 roster of alarm contractor companies to determine whether all those companies had paid the appropriate renewal fees. As of March 30, 1998, 33 of the 418 companies (7.9%) had not paid the appropriate fees and therefore had expired licenses. One of the 33 expired licensees had been issued a cease and desist order, and one license was listed as expired in other RBS information; the other 31 expired licensees were still listed as active.

Board staff stated that qualifying agents and alarm contractor companies that have not renewed their licenses within 90 days after the licenses' expiration are sent a cease and desist order. However, the review of qualifying agents listed on the roster found that 79 of the 106 expired licensees had been expired longer than 90 days and that only 13 of the 79 had been issued a cease and desist order. In addition, the review of alarm system contractor companies listed on the roster found that the licenses for 26 of the 33 companies with expired licenses had been expired longer than 90 days and that only one of the 26 had been issued a cease and desist order.

Board staff stated that the continuing education requirements and the one-year renewal period have hindered licensees' timely renewal. They believed that changing to a two-year renewal cycle could alleviate most delays in license renewals.

Recommendation

The Board for Licensing Alarm Systems Contractors should consistently enforce license renewal requirements and use available enforcement actions, if necessary, to ensure that those qualifying agents and alarm contractor companies who do not renew in a timely manner are not

operating with an expired license. In addition, board staff should ensure that qualifying agents and alarm contractor companies who fail to meet renewal requirements are not listed as active licensees on either the printed roster or RBS. (Board staff could include license expiration dates with the information listed on the printed roster.) If a biennial renewal cycle would help alleviate problems with timely renewals, the board and the division should propose the needed legislative changes.

Management's Comment

Division of Regulatory Boards

We concur. A request to modify RBS has been forwarded to the Information Systems Section of the department to ensure that any license that has passed the expiration date for renewal is listed as inactive.

Administrator for the Security Industries Licensing Boards

Alarm contracting companies and qualifying agents have one year in which to renew licenses. There is no law, rule or policy instructing this office to send cease and desist letters to those who have not met the requirements for renewal. Upon my instruction, because of some evidence that a qualifying agent or company continues to operate on an expired license, a cease and desist letter is sent. It is not a matter of routine. This issue will be discussed with our staff attorney and possibly the board. Depending on their consideration, this office will either consistently send a cease and desist letter to all expired licensees or discontinue the letter entirely.

Upon the expiration date of an alarm contracting company or qualifying agent, a request to data processing for an automatic status change to "inactive" will be forthcoming. Until the change takes place, a dedicated effort will be made to manually and individually change the status of these licenses upon their expiration and then back again to "active" if they choose to renew within their one-year grace period.

4. Two members of the Board for Licensing Alarm Systems Contractors had expired licenses during their board terms

Finding

According to Section 62-32-308(d), *Tennessee Code Annotated*, no person (with the exception of the public member) is eligible to sit as a member of the Board for Licensing Alarm Systems Contractors unless he or she is a licensed qualifying agent.

A file review of Alarm Systems Contractors qualifying agents found that the licenses for two board members had expired. One member's license expired April 30, 1997, and was not

renewed until April 1998. (Even then, his continuing education requirements had been met only through April 1997.) Another member's qualifying agent license expired October 31, 1997, and was not renewed until February 1998.

During the time their licenses were expired, one or both of these members attended board meetings and rulemaking hearings. It seems that the legality of rules, actions, and motions approved could be questioned if all board members did not meet the qualifications to sit on the board.

Recommendation

All qualifying agents appointed to the Board for Licensing Alarm Systems Contractors should maintain current licenses and meet all licensing requirements, including those for continuing education. Division of Regulatory Boards staff should notify the appointing authority (i.e., the Governor) concerning any members who do not meet all requirements.

Management's Comment

Division of Regulatory Boards

We concur. One of the two members is no longer on the board and the other now has his license in good standing.

5. The Burial Services Section is not auditing all cemetery companies and is not enforcing compliance with reporting requirements

Finding

The Burial Services Section's ability to monitor the appropriateness of cemetery companies' financial activities is limited by the lack of annual audits and by some cemetery companies' and their trustees' failure to submit timely annual reports. Although Section 46-2-313, *Tennessee Code Annotated*, requires an annual audit of cemetery companies' Improvement of Care Funds, seven of the 14 cemetery companies' files we reviewed contained no record of an audit of these funds during 1997. In addition, our review of companies' files found that some cemetery companies and cemetery company trustees were not submitting required annual reports in a timely manner.

Section 46-2-202, *Tennessee Code Annotated*, requires each cemetery company to file a report of its condition within 75 days of the end of the calendar or fiscal year. The trustee of the company's Improvement of Care Fund must file a trust fund report within 45 days after the end of the calendar year or the cemetery company's fiscal year. Three of the 14 files we reviewed did

not contain a trustees' annual report. In addition, nine of the cemeteries in our file review were required to submit annual reports (from both the cemetery company and the trustee) on the Merchandise and Services Trust. One of the nine files did not contain the required cemetery company's report, and two did not contain the required trustees' report.

Section 46-2-204 states that a cemetery company or trustee that fails to submit the required reports has committed a Class C misdemeanor. If an annual report is not submitted, the Commissioner of Commerce and Insurance has the authority to notify the company or trustee by registered mail that the annual report has not been received. If the report is not filed within 15 days after the letter is mailed, the commissioner may order a conditional suspension of registration. Burial Services staff are responsible for preparing the letters of notification regarding late reports and placing a copy in the individual cemetery's file; however, there was no evidence in the files we reviewed that such letters had been sent.

Recommendation

Burial Services Section management should ensure that annual audits are performed. Staff should monitor cemetery companies for compliance with state reporting requirements and use the enforcement actions available in statute if companies refuse to comply.

Management's Comment

Division of Regulatory Boards

We concur. The acting Executive Director is now exploring alternatives, including coordinating audit schedules, hiring additional staff, and securing adequate funding to ensure that each cemetery company receives an annual audit. Burial Services has instituted procedures to ensure that companies and trustees are provided the appropriate forms thirty days in advance of the filing due date and modifications have been completed in the Regulatory Boards System to provide management with information on untimely filings by companies. Those cemeteries that are noncompliant are reported to the commissioner for appropriate action.

Chair of the Board of Funeral Directors and Embalmers

The funeral board has no jurisdiction over cemeteries in the state of Tennessee.

6. Reprocessing unreadable fingerprint cards is a burden for the three Security Industries Licensing Boards

Finding

Reprocessing unreadable fingerprint cards is both a financial and administrative burden to the three Security Industries Licensing Boards (the Board for Licensing Alarm Systems Contractors, the Private Investigation Commission, and the Private Protective Services Advisory Committee). Applicants to these boards are required to submit three sets of classifiable fingerprints on standard TBI/FBI applicant cards. Two sets of these fingerprint cards, which are used to conduct background checks on the applicants, are submitted to the TBI and the FBI simultaneously, along with a \$24 processing fee to each agency. (The third set is retained in the applicant's file.)

However, the TBI and the FBI sometimes reject the fingerprint cards because they are unreadable. (Our review of fingerprint submissions from January to May 1998 indicated that about 7% were rejected.) There is no charge for applicant fingerprint cards that are submitted to the TBI and FBI a second time. However, cards that must be submitted additional times cost the boards \$48 (\$24 for the TBI and \$24 for the FBI) each time the cards are processed. In addition to the monetary cost, board staff spend a substantial amount of time obtaining and reprocessing additional sets of fingerprint cards.

Application fees charged to the boards' applicants are sufficient, for five of the six types of individual licenses, to pay for an initial TBI/FBI fingerprint check. (See table below.) However, three of the six licenses (Alarm Contractor Employees, Armed Security Guards, and Certified Trainers) do not have application fees sufficient to cover additional TBI/FBI fees (i.e., those assessed if a set of fingerprint cards must be submitted a third time or more).

Board	Application Fee	Initial TBI/FBI Fee	Net Remaining with Board	Second TBI/FBI Fee	Net Remaining With Board
Alarm Contractors					
<i>Qualifying Agents</i>	\$125	(\$48)	\$77	(\$48)	\$29
<i>Registered Employees</i>	\$75	(\$48)	\$27	(\$48)	(\$21)
Private Investigators					
<i>Private Investigators</i>	\$150	(\$48)	\$102	(\$48)	\$54
Security Guards					
<i>Unarmed Guards*</i>	\$50	(\$24)	\$26	(\$24)	\$2
<i>Armed Guards</i>	\$75	(\$48)	\$27	(\$48)	(\$21)
<i>Certified Trainers</i>	\$0	(\$48)	(\$48)	(\$48)	(\$96)

* Fingerprint cards for unarmed security guards are sent to the TBI only.

We contacted similar boards in North Carolina, Texas, and Florida concerning their policies on the cost and submission of fingerprint cards. North Carolina does not require fingerprints of applicants who pass a search for convictions or outstanding warrants. However, if a conviction or warrant is found through the search of criminal records, the fingerprints and application are sent to the state repository. North Carolina staff also receive specific training on identifying problem fingerprint cards. Florida charges applicants an initial fee to cover the cost of the check and requires them to pay an additional fee if the cards must be submitted a third or subsequent time. Texas does not charge a fee for the initial state law enforcement check, but charges a fee if fingerprint cards must be resubmitted. For the federal law enforcement check, that state charges the applicant for both the initial check and any subsequent check.

Security Industries Licensing Boards staff identified two issues that, if resolved, could improve the fingerprint submission process. First, many guard and security companies roll employee fingerprints in-house, using unqualified persons to roll the prints. The boards, however, apparently do not have the authority to take action against companies that continually submit unreadable fingerprints or to require applicants to obtain fingerprint cards from local or state law enforcement agencies, whose employees have been trained in fingerprinting. (Board staff do have some discretion in determining whether fingerprint cards are accepted or denied. For example, the board would reject a batch of fingerprint cards rolled in red ink, because the TBI and FBI board personnel will not accept such prints.) Second, individuals who have been approved by the Department of Safety to carry a handgun are not given any special consideration when applying to the Security Industries Licensing Boards. (Apparently the Department of Safety has some concerns about sharing confidential fingerprint information.) Therefore, even though these individuals have already cleared a TBI and FBI background check, they must submit to an additional background check before being licensed by any of the three Security Industries Licensing Boards.

Recommendation

The Security Industries Licensing Boards should consider implementing a fee for applicants whose fingerprint cards must be resubmitted a third time to the TBI and the FBI. In addition, the boards should consult with division attorneys to identify actions that could be taken against companies that routinely submit unreadable fingerprints. The boards may also wish to consider contacting the Department of Safety about the feasibility of a reciprocity agreement to share background and fingerprint information.

Management's Comment

Division of Regulatory Boards

We concur. The Security Industries Licensing Boards have explored various avenues to encourage applicants to have fingerprint cards completed by trained personnel to ensure that prints are decipherable. Collecting an additional fee for processing rejected fingerprint cards requires a statutory change and is currently under evaluation by management.

Chair of the Private Investigation Commission

We concur. The reprocessing of unreadable fingerprint cards is a financial burden as well as a burden on the commission's limited staff. The commission will consider promulgating rules in an effort to pass the direct monetary costs of resubmission to the applicant. The remaining recommendations related to this finding will be further studied as they would likely require legislative action.

Chair for the Private Protective Services Advisory Committee

We concur. Assessing additional fees and enforcement action against companies that routinely submit unreadable fingerprints are options. Coordinating regulatory efforts with the Department of Safety may face some legislative restrictions.

Administrator for the Security Industries Licensing Boards

I concur. When discussing this issue with the auditors, I advised them that I had recently submitted information to the Private Investigation Commission, the Alarm Contractors Board and the Private Protective Services Advisory Committee informing them that we experience a loss of revenue on the resubmission of unclassifiable fingerprints. I further informed the auditors that each board indicated an intent to remedy this loss by recommending a \$15 to \$25 fingerprint resubmission fee included in their next administrative rule changes.

7. The Board of Funeral Directors and Embalmers is allowing funeral establishments that change owners to operate under the existing license, in violation of state law

Finding

The Board of Funeral Directors and Embalmers has allowed funeral homes to operate under the licenses of the former owners until the licenses expire or until the establishments apply for new licenses, even though state law says these licenses are not transferable or assignable. The board apparently wants to ensure the continuation of services during changes of ownership.

Our review of board meeting minutes found that the board hears approximately 25 requests for ownership changes per year. Since licensee files do not indicate when a new owner begins operating a funeral home using an existing license, the board does not know how long new owners typically manage funeral homes before applying for licenses. The board's biennial licensing period could allow a new owner to operate under an existing license for many months.

Allowing new owners to operate under the existing license can cause problems, particularly if the board has enforcement actions pending against the licensed owner. One request for change of ownership presented to the board in January 1998 involved a funeral home that had been levied a \$5,000 civil penalty as a result of an audit of preneed sales contracts. The audit found that 160 preneed contracts sold between 1994 and 1996 had been misrepresented and the

funds collected had not been deposited in a trust. The former owner refused to pay the penalty and place nearly \$115,000 in a trust. The situation was resolved when the new owner decided to pay the civil penalty and place the necessary funds in the trust using money held as part of the settlement with the former owner; however, the persons who had purchased preneed contracts and the entire community could have been adversely affected if the new owner had refused to comply.

Some other states have policies regarding the amount of time a new owner has to file for a license. Oklahoma allows a funeral home's license to remain in effect by mutual consent of the buyer and seller for 30 days or until the next regularly scheduled board meeting. North Carolina requires a new license application to be made within 30 days of change of ownership. The administrator of Tennessee's Board of Funeral Directors and Embalmers stated that a grace period of 90 days would allow sufficient time for all transactions concerning change of ownership (including the board's action on the ownership change request and the issuance of a new license) to take place.

Recommendation

The Board of Funeral Directors and Embalmers should (1) determine a reasonable process and amount of time for new owners to apply for a license, (2) propose revised legislation (including possible enforcement actions) accordingly, and (3) consistently enforce the statutory requirements.

Management's Comment

Division of Regulatory Boards

We concur. Management is developing written procedures to allow an establishment to operate during an ownership change to ensure continuity of consumer protection and service.

Chair of the Board of Funeral Directors and Embalmers

I concur with the auditor's findings. It is my recommendation that the purchaser appear in front of the board and request a change of ownership the first time the board meets following closing of the sale of the business. This problem can be corrected through the rulemaking process so the information can be included as part of the state statutes. Funeral homes that have changed ownership and have not applied for and received a new license are actually operating without a license. I believe those funeral homes operating without a license are in violation of state statutes and therefore are subject to the levying of a fine.

RECOMMENDATIONS

LEGISLATIVE

This performance audit identified one area in which the General Assembly may wish to consider statutory changes to improve the efficiency and effectiveness of the professional regulatory boards' and/or the Division of Regulatory Boards' operations.

1. The General Assembly may wish to revise the statutes to clarify whether the Departments of Commerce and Insurance and Finance and Administration are to consider the professional regulatory boards individually, or as a group, for budget and self-sufficiency purposes.

ADMINISTRATIVE

The following areas should be addressed to improve the efficiency and effectiveness of the professional regulatory boards' and/or the Division of Regulatory Boards' operations.

1. The Department of Commerce and Insurance should evaluate the current level of monitoring of preneed contracts, both money funded and insurance funded, to determine if current monitoring efforts are providing adequate protection to the state's consumers. If needed, the department should revise the monitoring process and request appropriate legislative changes. Burial Services staff, in consultation with the Board of Funeral Directors and Embalmers, should review the process for auditing money-funded preneed contracts and identify ways to improve the effectiveness of these audits.
2. The Board of Funeral Directors and Embalmers should support continuing education programs regarding exposure to communicable diseases and formaldehyde and should encourage all licensees to participate.
3. Management of the Division of Regulatory Boards should review those boards that have problems meeting self-sufficiency requirements and identify ways to increase revenues and/or decrease expenses.
4. The Division of Regulatory Boards should implement a centralized system for monitoring and tracking complaints against licensees. The division should analyze the data to identify boards that do not process complaints in a timely manner and take actions to correct the problems.
5. The Board for Licensing Alarm Systems Contractors should consistently enforce license renewal requirements and use available enforcement actions, if necessary, to

ensure that those qualifying agents and alarm contractor companies who do not renew in a timely manner are not operating with an expired license. In addition, board staff should ensure that qualifying agents and alarm contractor companies who fail to meet renewal requirements are not listed as active licensees on either the printed roster or the RBS. (Board staff could include license expiration dates with the information listed on the printed roster.) If a biennial renewal cycle would help alleviate problems with timely renewals, the board and the division should propose the needed legislative changes.

6. All qualifying agents appointed to the Board for Licensing Alarm Systems Contractors should maintain current licenses and meet all licensing requirements, including those for continuing education. Division of Regulatory Boards staff should notify the appointing authority (i.e., the Governor) concerning any members who do not meet all requirements.
7. Burial Services Section management should ensure that annual audits are performed. Staff should monitor cemetery companies for compliance with state reporting requirements and use the enforcement actions available in statute if companies refuse to comply.
8. The Security Industries Licensing Boards should consider implementing a fee for applicants whose fingerprint cards must be resubmitted a third time to the TBI and the FBI. In addition, the boards should consult with division attorneys to identify actions that could be taken against companies that routinely submit unreadable fingerprints. The boards may also wish to consider contacting the Department of Safety about the feasibility of a reciprocity agreement to share background and fingerprint information.
9. The Board of Funeral Directors and Embalmers should (1) determine a reasonable process and amount of time for new owners to apply for a license, (2) propose revised legislation (including possible enforcement actions) accordingly, and (3) consistently enforce the statutory requirements.

Appendix

Professional Regulatory Boards Reviewed

Board for Licensing Alarm Systems Contractors - Title 62, Chapter 32. The board's purpose is to provide uniform procedures and qualifications for certifying, licensing, and regulating alarm systems contractors and to protect the safety and security of persons and property by ensuring the competence of individuals or companies offering alarm systems and services to the general public.

Private Investigation Commission - Title 62, Chapter 26. The commission's purpose is to issue and regulate licenses for private investigators and private investigation firms.

Private Protective Services Advisory Committee - Title 62, Chapter 35. The committee's purpose is to advise the Commissioner of Commerce and Insurance on rulemaking and to make formal recommendations to the commissioner or the General Assembly about issues relating to private security matters. The commissioner licenses private security companies and registers security guards/officers.

Board of Examiners for Architects and Engineers - Title 62, Chapter 2. The board has the authority to issue and regulate licenses for architects, engineers, landscape architects, and interior designers and their related firms.

Board of Barber Examiners - Title 62, Chapter 3. The board enforces the rules and regulations governing the profession of barbering through certification of master barbers, technicians, and instructors and certification and inspection of barber schools and shops.

Board of Cosmetology - Title 62, Chapter 4. The board has responsibility for enforcing the rules and regulations governing the professions of cosmetology and manicuring through licensing of cosmetologists, manicurists, aestheticians, shampoo technicians, natural hair stylists, and instructors and licensing and inspection of shops and schools.

Board of Funeral Directors and Embalmers - Title 62, Chapter 5. This board licenses and regulates the professions of funeral directing and embalming through registration of apprentices, licensing of funeral directors and embalmers, and licensing and inspections of funeral establishments. The Burial Services Section registers cemeteries, collects annual registration fees, maintains files, performs examinations of cemeteries and trusts, and investigates complaints.

Auctioneer Commission - Title 62, Chapter 19. The commission is responsible for examining and licensing auctioneers, apprentice auctioneers, and firms engaged in the auction industry in Tennessee.

Board of Examiners for Land Surveyors - Title 62, Chapter 18. The board is responsible for certifying land surveyors working in Tennessee.

Board of Pharmacy - Title 63, Chapter 10. The board enforces the rules and regulations governing the profession of pharmacy. The board licenses pharmacists and pharmacies and registers drug researchers and manufacturers.

Board of Polygraph Examiners - Title 62, Chapter 27. The board licenses and regulates polygraph examiners, interns, and polygraph companies.

Collection Service Board - Title 62, Chapter 20. The board is responsible for examining and licensing collection service firms and collection managers working in the collections industry in Tennessee.

Real Estate Appraiser Commission - Title 62, Chapter 39. The commission regulates, licenses, and certifies real estate appraisers to ensure compliance with the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA).

Real Estate Commission - Title 62, Chapter 13. The commission licenses affiliate brokers, brokers, real estate firms, and time-share agents.

